IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BENEFICIAL INNOVATIONS, INC.,

Plaintiff,

v.

BLOCKDOT, INC., CAREERBUILDER, LLC, CNET NETWORKS, INC., DIGG, INC., EBAUM'S WORLD, INC., JABEZ NETWORKS, INC., THE NEW YORK TIMES COMPANY, THE WASHINGTONPOST.NEWSWEEK INTERACTIVE COMPANY, LLC, THE WEATHER CHANNEL INTERACTIVE, INC.,

Defendants.

CASE NO. 2:07-cv-263(TJW/CE)

JURY TRIAL DEMANDED

AMENDED ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT E'BAUMS WORLD, INC. TO PLAINTIFF'S SECOND AMENDED COMPLAINT

Defendant EBAUM'S WORLD, INC., ("***eBaum's***" or "***Defendant***") by and through its attorneys, files this Answer and Affirmative Defenses to Plaintiff, BENEFICIAL INNOVATIONS, INC.'s, ("***Beneficial***" or "***Plaintiff***") First Amended Complaint ("***Complaint***") and states as follows:

1. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph "1" regarding Plaintiff's ownership of U.S. Patent No. 6,712,702 (the "***702 Patent***") and U.S. Patent No. 6,183,366 (the "***366 Patent***") and therefore, denies the same. Defendant is without knowledge or information sufficient to form a belief as to those defendants and affirmatively denies the allegations in Paragraph "1" as they

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apply to eBaum's. The remaining allegations of Paragraph "1" are legal conclusions to which no response is required. To the extent that any response is required, such allegations are hereby denied.

2. Defendant admits that the Complaint alleges that this in an action for patent infringement under the provisions of the Patent Laws of the Untied States, Title 35, United States Code. Defendant admits that subject-matter jurisdiction of patent claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a). Defendant denies any patent infringement and any remaining allegations set forth in Paragraph "2."

3. Defendant is without knowledge or information sufficient to form a belief as to the alleged business activities or as to the infringement by other defendants and therefore, denies the allegations set forth in Paragraph "3" as to those defendants. Defendant admits that eBaum's is doing business in New York and elsewhere in the United States. Defendant denies any patent infringement of the 702 Patent and the 366 Patent. The remaining allegations set forth in Paragraph "3" are legal conclusions to which no response is required. To the extent that any response is required, such allegations are hereby denied.

4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph "4" and therefore, denies the same.

5. Defendant denies knowledge or information sufficient to form a belief as to the allegations set forth in Paragraphs "5", "6", "7" and "8."

6. Defendant eBaum's admits so much of the allegation as set forth under Paragraph "9" of the Complaint to the extent that it is a corporation existing under the laws of the State of New York, and its principal place of business is located at 2590 Brighton Henrietta Townline Road, Rochester, New York.

7. Defendant denies knowledge or information sufficient to form a belief as to the alleged business activities or as to infringement by other defendants and therefore, denies Paragraphs “10", “11", “12" and “13."

CLAIM FOR INFRINGEMENT OF THE 702 PATENT

8. Defendant refers to and incorporates herein by reference, the responses to each of the allegations in Paragraphs “1" through “7" above.

9. Defendant admits that Exhibit “A” attached to the Complaint is what is believed to be a copy of the text of the 702 Patent, and that this document indicates that the United States Patent and Trademark Office issued the 702 Patent, entitled “*Method and System for Playing Games on a Network*,” on March 30, 2004. Defendant denies that the 702 Patent was duly and legally issued. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph “15" and therefore, such allegations are hereby denied.

10. Defendant denies any patent infringement of the 702 Patent. Defendant is without knowledge or information sufficient to form a belief as to infringement by other defendants and therefore, denies the allegations in Paragraph “16" as to those defendants and affirmatively denies the allegations in Paragraph “16" as they apply to eBaum’s.

11. Defendant denies any patent infringement of the 702 Patent. Defendant is without knowledge or information sufficient to form a belief as to infringement by other defendants and therefore, denies the allegations in Paragraph “17" as to those defendants. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations of Paragraph “17" and therefore, such allegations are hereby denied.

12. Defendant denies any patent infringement of the 702 Patent. Defendant is without knowledge or information sufficient to form a belief as to willfulness by other defendants and therefore, denies the allegations in Paragraph “18" as to those defendants and affirmatively denies the allegations in Paragraph “18" as they apply to eBaum’s.

13. Defendant denies any patent infringement. The remaining allegations of Paragraph “19" are legal conclusions to which no response is required. To the extent that any response is required, such allegations are hereby denied.

14. The allegations of Paragraph “20" require no response. To the extent that any response is required, such allegations are hereby denied.

CLAIM FOR INFRINGEMENT OF THE 366 PATENT

15. Defendant refers to and incorporates herein by reference, the responses to each of the allegations in Paragraphs “1" through “14" above.

16. Defendant admits that Exhibit “B” attached to the Complaint is what is believed to be a copy of the text of the 366 Patent and that this document indicates that the United States Patent and Trademark Office issued the 366 Patent, entitled “*Network Gaming System*,” on February 6, 2001. Defendant denies that the 366 Patent was duly and legally issued. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph “22" and therefore, such allegations are hereby denied.

17. Defendant denies any patent infringement of the 366 Patent. Defendant is without knowledge or information sufficient to form a belief as to infringement by other

defendants and therefore, denies the allegations in Paragraph “23" as to those defendants and affirmatively denies the allegations in Paragraph “23" as they apply to eBaum’s.

18. Defendant denies any patent infringement of the 366 Patent. Defendant is without knowledge or information sufficient to form a belief as to infringement by other defendants and therefore, denies the allegations in Paragraph “24" as to those defendants and affirmatively denies the allegations in Paragraph “24" as they apply to eBaum’s.

19. Defendant denies any patent infringement of the 366 Patent. Defendant is without knowledge or information sufficient to form a belief as to willfulness by other defendants and therefore, denies the allegations in Paragraph “25" as to those defendants and affirmatively denies the allegations in Paragraph “25" as they apply to eBaum’s.

20. Defendant denies any patent infringement. The remaining allegations of Paragraph “26" are legal conclusions to which no response is required. To the extent that any response is required, such allegations are hereby denied.

21. The allegations of Paragraph “27" require no response. To the extent that any response is required, such allegations are hereby denied.

22. Defendant denies any and all allegations of the Complaint that are not expressly admitted above.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE DEFENDANT STATES:

23. eBaum’s does not infringe, has not infringed and does not and has not induced infringement or contributed to infringement of any claim of the 702 Patent or the 366

Patent under any theory of infringement, including direct infringement, indirect infringement, literal infringement or infringement under the doctrine of equivalents.

24. The claims of the 702 Patent and the 366 Patent are invalid and void for failing to meet the requirements of Title 35, United States Code, including but not limited to Sections 102, 103 and 112 thereof.

25. As such, the Complaint fails to state a cause of action upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE DEFENDANT STATES:

26. The Complaint fails to state a cause of action upon which relief may be granted.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE DEFENDANT STATES:

27. Plaintiff insufficiently served the Complaint upon Defendant, eBaum's, as required by law.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE DEFENDANT STATES:

28. Plaintiff lacks jurisdiction over the person of Defendant eBaum's and therefore, is barred from recovering from the Defendant herein.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE DEFENDANT STATES:

29. That this Court is the improper venue as Plaintiff failed to state a cause of action, has not obtained personal jurisdiction and therefore Plaintiff, is barred from recovering from Defendant herein.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE
DEFENDANT STATES:

30. Plaintiff is estopped from asserting construction of any claim of the 702 Patent or the 366 Patent that covers any acts of the Defendant or any products made, used, sold or offered for sale by the Defendant because of amendments and arguments made by the inventor to overcome prior art to obtain allowance of the patent claims.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE
DEFENDANT STATES:

31. Plaintiff's claims for damages are barred by the equitable doctrine of laches in view of its unreasonable delay in bringing suit.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE
DEFENDANT STATES:

32. Plaintiff's claims for damages and request for prospective relief are precluded by intervening rights doctrine, including that set forth in 35 U.S.C. §§ 307 and 252 (as referenced in § 307).

AS AND FOR A NINTH AFFIRMATIVE DEFENSE
DEFENDANT STATES:

33. Plaintiff's Complaint should be dismissed as Plaintiff lacks the legal capacity to sue.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE
DEFENDANT STATES:

34. The 702 Patent is invalid for failure to meet one or more conditions for patentability set forth in 35 U.S.C. §§ 101, et seq., including without limitations §§ 101, 102, 103 and 112.

35. The 366 Patent is invalid for failure to meet one or more conditions for patentability set forth in 35 U.S.C. §§ 101, et seq., including without limitations §§ 101, 102, 103 and 112.

COUNTERCLAIMS

Defendant and Counterclaim—Plaintiff, eBaum's World, Inc., pleads the following counterclaims against Plaintiff and Counterclaim—Defendant, Beneficial Innovations, Inc.

36. eBaum's is a corporation organized and existing under the laws of New York, having its principal place of business at 2590 Brighton Henrietta Townline Road, Rochester, New York.

37. Beneficial claims to be a corporation existing under and by virtue of the laws of the State of Nevada.

JURISDICTION AND VENUE

38. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action concerns a federal question relating to patents arising under Title 35 of the United States Code, and pursuant to 28 U.S.C. §§ 2201 and 2202 because this is a civil action for declaratory judgment.

39. This Court has personal jurisdiction over Beneficial by virtue of its having submitted to the jurisdiction of this Court by filing the underlying lawsuit.

40. Venue is proper under 28 U.S.C. §§ 1391 and 1400.

COUNT ONE—U.S. PATENT NO. 712,702

41. eBaum's incorporates by reference each of the allegations set forth in Paragraphs 1-40 above and further alleges as follows:

42. Beneficial claims to be the owner by assignment of the 702 Patent, entitled "Method and System for Playing Games on a Network."

43. Beneficial further claims that eBaum's infringes, contributes to the infringement, and induces others to infringe the 702 Patent.

44. eBaum's denies that it infringes and that it has infringed, either directly, or indirectly, contributorily, or by inducement, the 702 Patent, either literally or under the doctrine of equivalents, willfully or otherwise.

45. eBaum's further asserts that the 702 Patent is invalid for failure to comply with the requirements of Title 35, United States Code, including, but not limited to, Sections 102, 103, and/or 112.

46. As a result of Beneficial's allegations and eBaum's responses to Beneficial's allegations, an actual and immediate justiciable controversy exists between the parties for which declaratory relief is appropriate.

47. eBaum's is entitled to judgment from this Court that the 702 Patent in not infringed by eBaum's and that the 702 Patent is invalid.

COUNT TWO—U.S. PATENT NO. 6,183,366

48. eBaum's incorporates by reference each of the allegations in Paragraphs 1-47 above and further alleges as follows:

49. Beneficial claims to be the owner by assignment of the 366 Patent, entitled "Network Gaming System."

50. Beneficial further claims that eBaum's infringes, contributes to the infringement, and induces others to infringe the 366 Patent.

51. eBaum's denies that it infringes and that it has infringed, either directly, or indirectly, contributorily, or by inducement, the 366 Patent, either literally or under the doctrine of equivalents, willfully or otherwise.

52. eBaum's further asserts that the 366 Patent is invalid for failure to comply with the requirements of Title 35, United States Code, including, but not limited to, Sections 102, 103, and/or 112.

53. As a result of Beneficial's allegations and eBaum's responses to Beneficial's allegations, an actual and immediate justiciable controversy exists between the parties for which declaratory relief is appropriate.

54. eBaum's is entitled to judgment from this Court that the 366 Patent in not infringed by eBaum's and that the 366 Patent is invalid.

55. This is an exceptional case entitling eBaum's to an award of its attorney's fees incurred in connection with this action, pursuant to 35 U.S.C. § 285.

JURY DEMAND

56. eBaum's demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Defendant, eBaum's respectfully requests the Court to order:

A. That the Complaint be dismissed in its entirety, with prejudice, and that Plaintiff take nothing;

B. A declaration that eBaum's has not infringed and does not infringe any valid claim of the 702 Patent and that eBaum's has not induced infringement of any valid claim of the 702 Patent;

C. A declaration that eBaum's has not infringed and does not infringe any valid claim of the 366 Patent and that eBaum's has not induced infringement of any valid claim of the 366 Patent;

D. A declaration that the 702 Patent is invalid;

E. That Defendant eBaum's be awarded attorney's fees relative to the defense of this action;

F. That this is an "exceptional case" under 35 U.S.C. § 285, thereby entitling Defendant eBaum's to an award of attorney's fees;

G. Any and all further relief this Court deems proper.

Dated: October 9, 2007

Respectfully submitted,

By: /s/ *Michael E. Jones*

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 9th day of October, 2007. Any other counsel of record will be served by first class U.S. mail on this same date.

/s/ *Michael E. Jones*
Michael E. Jones, Esq.